

EXHIBIT 11

BROWN DECLARATION IN SUPPORT OF MOTION TO EXCLUDE

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Page 1

1 UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF CALIFORNIA

3 SAN JOSE DIVISION

4

5 IN RE: HIGH-TECH EMPLOYEE)

6 ANTITRUST LITIGATION)

7) No. 11-CV-2509-LHK

8 THIS DOCUMENT RELATES TO:)

9 ALL ACTIONS.)

10 _____

11

12

13 VIDEOTAPED DEPOSITION OF DEBORAH CONRAD

14

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

15

November 21, 2012

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Reported by: Anne Torreano, CSR No. 10520

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1 processor or to be used in other devices like iPods and
2 the Nano for memory.

3 Q. And did Intel provide the processors for those
4 latter two devices?

5 A. No.

11:05:48

6 Q. Whose idea was it to form the Apple team at
7 Intel?

8 A. Mine, I guess. I was asked to build -- put a
9 team together, and that's what I did.

10 Q. Well, who asked you to put the team together? 11:06:20

11 A. Paul.

12 Q. Paul Otellini?

13 A. Paul Otellini.

14 Q. And he was the CEO of the company at the time?

15 A. Yes.

11:06:27

16 Q. And I'm sorry. When -- just so I'm clear,
17 when the Apple team was formed in March of 2005, were
18 you the first -- you were in charge; right?

19 A. Yes. There was no organization before that.
20 I was the first employee and then built the team. 11:06:50

21 Q. So there was no -- you didn't have a
22 predecessor?

23 A. Correct.

24 Q. But then once this organization was formed,
25 who did you report to? Did you report to Mr. Otellini 11:07:00

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1 or someone else?

2 A. I reported to Anand Chandrasekher, who
3 reported to Paul at the time.

4 Q. Okay. With that kind of March 2005 date in
5 mind, can you tell me when you first spoke to 11:07:16
6 Mr. Mansfield about the agreement between Apple and
7 Intel?

8 A. The time that I remember the discussion was
9 several years later. We were in the middle of a very
10 ambitious engineering project and had some very 11:07:34
11 critical milestones, and we had people on site at
12 Apple. And it was at that time that he, Bob, had come
13 to me and said, let's make sure we're staffing up our
14 respective teams and not filling each other's holes
15 with our very unique and rare talent. It was a very 11:07:52
16 exclusive kind of engineering capability we were
17 building up.

18 Q. Let me make sure I have that clear.

19 So is it your testimony that the first time
20 you spoke to Mr. Mansfield about the agreement was in 11:08:08
21 approximately 2007?

22 A. Yes, that's what I remember. Yes.

23 Q. And so prior to that time, namely, between
24 March of 2005 and that first conversation with
25 Mr. Mansfield, is it your recollection that there was 11:08:25

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1 no agreement between Apple and Intel regarding
2 poaching, cold-calling?

3 A. Yes.

4 Q. Okay. Now, when Mr. Mansfield first
5 approached you in 2007 about the agreement, did you
6 agree right away that it was a good idea? 11:08:53

7 A. Yes.

8 Q. Okay. Did you consult with any of your
9 superiors about the agreement on or about that time?

10 A. No.

11:09:12

11 Q. Did you ever seek legal counsel at that time?

12 A. Not on that specific topic, no.

13 Q. Okay. And so for example, when you -- when
14 you spoke to Mr. Mansfield and he suggested this
15 agreement, you didn't check with lawyers at Intel to
16 see if there was any kind of legal issue surrounding
17 it, did you? 11:09:31

18 MR. HINMAN: Asked and answered.

19 THE WITNESS: No.

20 BY MR. SAVERI:

11:09:42

21 Q. Is there any written record of this agreement?

22 A. No, not that I know of.

23 Q. Now, at the time -- or while you were in
24 charge of the Apple team, did you keep a notebook?

25 A. A note -- I'm sorry. I don't understand. 11:10:09

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1 prepared while I was out on medical leave, and I did
2 not have a chance to look at it. I would have
3 corrected it then.

4 Q. And so that's fair.

5 Let me just ask you, as far as you're aware, 12:00:56
6 was there someone else at Intel that was contacted by
7 Apple in the latter half of 2005 regarding this
8 subject?

9 A. In the beginning of the relationship -- the
10 answer is "yes." 12:01:15

11 In the beginning of the relationship, both
12 sides were very enthusiastic and wanted -- and there
13 were employees on both sides that wanted to
14 collaborate, and so there was just -- I would say just
15 general enthusiasm about the whole relationship, and 12:01:30
16 people wanted to understand about job opportunities on
17 both sides.

18 Q. And I just want to be as clear as I possibly
19 can about this.

20 A. Yes. This is not referring to the 12:01:43
21 conversation with Bob Mansfield.

22 Q. And I guess my question is, are you aware
23 whether or not anybody else at Intel had a
24 communication with Apple in the latter half of 2005 --

25 A. No. 12:01:55

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1 Q. -- regarding this subject?

2 MR. HINMAN: And "this subject," I'm just
3 going to object as vague, and maybe you want to sharpen
4 it up a bit.

5 MR. SAVERI: And I was trying to use a 12:02:02
6 shorthand but -- so let me ask a very precise question.

7 BY MR. SAVERI:

8 Q. Are you aware whether or not anyone else at
9 Apple contacted Apple in the latter half of 2005 to
10 express concern about the companies actively recruiting 12:02:13
11 each other's engineers?

12 MR. TUBACH: You said "Apple" twice in that
13 question.

14 THE WITNESS: Can you repeat the question
15 again? 12:02:23

16 BY MR. SAVERI:

17 Q. Maybe I screwed it up. I was trying to be
18 precise.

19 A. I'm confused on how you're using "Apple" and
20 "Intel." 12:02:28

21 Q. I may have reversed them.

22 Do you know whether or not, in the latter half
23 of 2005, Apple contacted anybody else at Intel to
24 express concern about the companies actively recruiting
25 each other's engineers? 12:02:50

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1 A. No.

2 Q. Okay. The next sentence says, "Apple and
3 Intel" -- excuse me, "Intel and Apple discussed the
4 fact that the trust required for a successful
5 collaboration would be compromised and the effort 12:03:14
6 itself significantly undermined if Intel's or Apple's
7 recruiters make cold calls targeting each other's
8 employees."

9 Do you see that?

10 A. Yes. 12:03:26

11 Q. Does that accurately describe the conversation
12 that you did have with Mr. Mansfield in 2007?

13 A. Yes.

14 Q. On page 12, on line 5 there's a paragraph that
15 begins "To help." 12:03:50

16 Do you see that?

17 A. Yes.

18 Q. And it says, "To help that their extensive
19 historic collaboration was successful, Intel and Apple
20 came to an understanding that they would avoid 12:03:59
21 cold-calling each other's key employees involved with
22 the collaboration and that Apple would keep Intel
23 apprised when its employees applied for positions at
24 Apple."

25 Did I read that right? 12:04:10

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1 A. Yes.

2 Q. Does that accurately describe the
3 understanding that you reached with Mr. Mansfield?

4 A. Yes.

5 Q. Now, in the next paragraph at line 11 it says, 12:04:16
6 "Thereafter, Intel and Apple would occasionally have
7 discussions when Intel engineers approached Apple."

8 A. Yes.

9 Q. Do you see that?

10 Is that accurate?

12:04:30

11 A. Yes.

12 Q. Now, I think you identified one situation when
13 this was discussed.

14 Do you recall that?

15 A. Yes.

12:04:40

16 Q. Reading this, does this refresh your
17 recollection that there were in fact more than one
18 discussion about this subject?

19 A. The way I read this?

20 Q. Yes.

12:04:53

21 A. Is that I know there were people on my team
22 that would -- that were working with Apple and that
23 there would occasionally be discussions. And so it
24 wasn't about a specific employee. It was just
25 generally. It was a general belief that we shouldn't

12:05:07

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1 be recruiting from each other's teams.

2 Q. But then if you read the next sentence, it
3 says, "Depending on the employee, Intel would sometimes
4 try to persuade the employee to remain at Intel."

5 Do you see that?

12:05:25

6 A. Yes.

7 Q. Is that a correct statement of fact?

8 A. Yes.

9 Q. So is it true, then, that on more than one
10 occasion Intel would -- excuse me.

12:05:30

11 Is it true, then, that on more than one
12 occasion Intel did in fact try to persuade the employee
13 to remain at Intel?

14 A. Yes, I would hope so. That was the intent of
15 those discussions, yes.

12:05:44

16 Q. Now, did you participate in the discussions
17 that are referred to in this paragraph?

18 A. No, not that I remember.

19 Q. Okay. Were there -- are you aware that there
20 were others at Intel that participated in the
21 discussions that are described in this paragraph?

12:06:11

22 A. Yes.

23 Q. Do you know who those people at Intel are or
24 were?

25 A. At least on one occasion it was someone who

12:06:23

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1 REPORTER'S CERTIFICATE

2 The undersigned Certified Shorthand Reporter
3 licensed in the State of California does hereby
4 certify:

5 I am authorized to administer oaths or
6 affirmations pursuant to Code of Civil Procedure,
7 Section 2093(b), and prior to being examined, the
8 witness was duly administered an oath by me.

9 I am not a relative or employee or attorney or
10 counsel of any of the parties, nor am I a relative or
11 employee of such attorney or counsel, nor am I
12 financially interested in the outcome of this action.

13 I am the deposition officer who
14 stenographically recorded the testimony in the
15 foregoing deposition, and the foregoing transcript is a
16 true record of the testimony given by the witness.

17 Before completion of the deposition, review of
18 the transcript [x] was [] was not requested. If
19 requested, any changes made by the deponent (and
20 provided to the reporter) during the period allowed are
21 appended hereto.

22 In witness whereof, I have subscribed my name
23 this ____ day of _____, 2012.
24

25 _____
ANNE M. TORREANO, CSR No. 10520